

GEORGE H. RIVERS,  
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 Plaintiff, )  
 )  
 v. ) No. 4:10CV2187 RWS  
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 ERIC K. SHINESKI, Secretary of )  
 Veterans Affairs, et al., )  
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 Defendants. )

This matter is before me on plaintiff's motion to proceed in forma pauperis. I have reviewed the financial affidavit, and I will allow plaintiff to proceed without prepayment of the filing fee. See 28 U.S.C. § 1915(a).

Pursuant to 28 U.S.C. § 1915(e)(2)(B), I must dismiss a complaint filed in forma pauperis if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief. An action is frivolous if it “lacks an arguable basis in either law or fact.” Neitzke v. Williams, 490 U.S. 319, 328 (1989); Denton v. Hernandez, 504 U.S. 25, 31 (1992). An action is malicious if it is undertaken for the purpose of harassing the named defendants and not for the purpose of vindicating a cognizable right. Spencer v. Rhodes, 656 F. Supp. 458, 461-63 (E.D.N.C. 1987), *aff’d* 826 F.2d 1059 (4th Cir.

1987). A complaint fails to state a claim if it does not plead “enough facts to state a claim to relief that is plausible on its face.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

Plaintiff brings this action under Title VII for alleged racial discrimination. Named as defendants are Eric K. Shineski, Secretary of Veterans Affairs, Becky Lemen (VA employee), Tommie Lee (same), Joan Faulkner (same), and William Jones (same).

Title VII provides a remedy only against an “employer.” The Eighth Circuit Court of Appeals has squarely held that “supervisors may not be held individually liable under Title VII.” Bonomolo-Hagen v. Clay Central-Everyly Community School District, 121 F.3d 446, 447 (8th Cir. 1997) (citing Spencer v. Ripley County State Bank, 123 F.3d 690, 691-92 (8th Cir. 1997) (per curiam)); see Bales v. Wal-Mart Stores Inc., 143 F.3d 1103, 1111 (8th Cir. 1998). Defendants Lemen, Lee, Faulkner, and Jones are not “employers” under Title VII. As a result, the complaint fails to state a claim upon which relief can be granted as to these defendants, and they will be dismissed from this action.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion to proceed in forma pauperis [#2] is **GRANTED**.

**IT IS FURTHER ORDERED** that defendants Lemen, Lee, Faulkner, and Jones are **DISMISSED** from this action without prejudice.

**IT IS FURTHER ORDERED** that the Clerk shall issue process or cause process to issue as to Eric K. Shineski, Secretary of Veterans Affairs.

An Order of Partial Dismissal will be filed with this Memorandum and Order.

Dated this 8th day of December, 2010.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE